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HIGH COURT OF CHHATTISGARH, BILASPUR

Single Bench : **Hon'ble Shri H.L. Dattu, CJ.**

Writ Petition No. 116 of 2001

Petitioner : Jagatram son of Ratthu Ram Aghariya, resident of village Malidih, Tehsil and District Mahasamund, Chhattisgarh

Vs.

Respondents

1. State of Chhattisgarh, through Secretary, Department of Revenue Raipur, Chhattisgarh
2. Additional Commissioner, Raipur Division, Raipur
3. Collector Mahasamund, Distt. Mahasamund
4. Sub Divisional Officer, Revenue, Mahasamund
5. Tehsildar, Mahasamund
6. Panchwati, wife of Dhanau Gond, aged about years, resident of village Palidih, Tehsil and Distt. Mahasamund
7. Mst. Anusuiya, Wd/o Khomanlal Chandrakar, aged about 65 years
8. Jaiprakash S/o Khomanlal Chandrakar
9. Suresh son of Khomanlal Chandrakar
10. Jugal Kishore, S/o Khomanlal Chandrakar
11. Laxmibai, D/o Khomanlal Chandrakar

All respondents 7 to 11 are residents of village Mudmar, Tehsil and district Mahasamund, Chhattisgarh

Writ Petition under Articles 226/227 of the Constitution of India.

Present: Shri V.R.Tiwari, counsel for the petitioner.
Shri A.S. Kachhawaha G.A. for the State.
Shri Kshitij Sharma, counsel for respondent no.6.

ORAL ORDER
(Passed on 25th April, 2007)

Petitioner is a purchaser of land measuring 6.68 acers from one Khomanlal Chandrakar. The authorities under the Land Revenue Code had passed an order reverting back the land in question to the original holder

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Ghunmat Bai without affording an opportunity of hearing to the petitioner. Therefore, the petitioner is before this Court in writ petition no. 3445 of 1999. This Court by an order dated 06-09-1990 has set aside the orders passed by the authorities and has remanded the matter to S.D.O. (Revenue) to re-do the matter in accordance with law after affording an opportunity of hearing given to the petitioner.

(2) After such remand the SDO (Revenue) had passed the order dated 16-05-1994 reverting back the land to the original holder on the ground that the petitioner had not supplied the proper information to him. Aggrieved by that order passed by the SDO (Revenue) the petitioner had filed an appeal before the Collector. The Collector by his order dated 27-03-2000, had disposed of the appeal and remanded the matter to the SDO (Revenue) to re-do the matter in accordance with law.

(3) One Smt. Panchwati had filed an application before the Collector to reopen the case and also to grant an order of injunction in her favour. That application was opposed by the petitioner. However, the Collector by his order dated 14-06-2000, had granted an order of temporary injunction in favour of Smt. Punchwati. Aggrieved by that order, the petitioner had moved a revision petition before the Commissioner. In the said revision petition he had called in question only the orders passed by the Collector dated 14-06-2000.

(4) The Commissioner after considering the revision petition filed by the petitioner, has set aside the orders passed by the Collector dated 27-03-2000 which was not even the subject matter of the revision petition. That is why the petitioner is before me in this writ petition.

(5) Shri V.R.Tiwari, learned counsel for the petitioner states that the Revisional Authority has exceeded its jurisdiction while disposing of the revision petition filed by the petitioner. According to the learned counsel, the subject matter of the revision petition before the Revisional Authority was the order passed by the Collector dated 14-06-2000 and while disposing of the revision petiton the Commissioner ought not to have disturbed the order passed by the Collector dated 27-03-2000.

(6) I have carefully gone through the orders passed by the Revisional Authority. In the preamble of the order it is clearly stated that what was questioned by the petitioner before the Revisional Authority is the order passed by the Collector dated 14-06-2000. While disposing of the revision petition the Revisional Authority could not have set aside the orders passed by the Collector dated 27-03-2000. Therefore, in my opinion, the learned counsel for the petitioner is justified in contending that the Commissioner has exceeded his brief while disposing of the revision petition. In that view of the matter, the petition filed by the petitioner is requires to be allowed and the matter requires to the remanded to the SDO. Accordingly the following:

Order

(i) Petition is allowed.

(ii) Order passed by the Commissioner is set aside.

(iii) Both the sides would submit the matter may be remitted back to the SDO (Revenue) to re-do the matter in accordance with the law. Accordingly, the matter is remitted to SDO (Revenue) to re-do the matter in accordance with law after affording an opportunity of hearing to both the parties. Ordered Accordingly.

Sd/-
Chief Justice